

02/05/02

FACT SHEET

Final Amendments to the “General Provisions” of National Emission Standards for Hazardous Air Pollutant Emissions

Final Amendments to Clean Air Act’s “Section 112 (j) Rule”

TODAY’S ACTION

- The Environmental Protection Agency (EPA) today promulgated final amendments to two of its rules pertaining to national standards to control emissions of toxic air pollutants from industrial facilities across the country. Toxic air pollutants, also known as air toxics, are those compounds known or suspected of causing cancer or other serious health effects.
- The first of today’s final actions amends the rule, known as the “General Provisions”. The General Provisions establishes a common set of requirements for developing rules or standards to regulate emissions of toxic air pollution. The Clean Air Act requires EPA to develop emission standards for different industries that emit toxic air pollution.
- EPA is also taking final action to amend its rule known as the “Section 112(j) rule”. This rule establishes a mechanism for states to regulate emissions of toxic air pollutants in the event that EPA fails to issue air toxic emission standards by the regulatory deadline provided for in the Clean Air Act (November 15, 2000).

BACKGROUND

- The Clean Air Act of 1990 requires EPA to identify industrial or “source” categories that emit one or more of the listed 188 toxic air pollutants.
- For major sources within each source category, the Act requires EPA to develop national standards that restrict emissions to levels consistent with the lowest emitting (also called best-performing) plants. These air toxics control standards are based on what is referred to as “Maximum Achievable Control Technology”. Major sources are those sources that emit 10 tons per year or more of a single air toxic or 25 tons per year or more of a combination of air toxics.
- The Clean Air Act requires EPA to issue air toxic control standards over a 10-year schedule. If EPA misses a regulatory deadline by 18 months, Section 112(j) of the Clean Air Act requires affected industrial sources of air toxics to revise their operating permits to contain air toxic emission limits equivalent to the limits that EPA should have established.

- When EPA subsequently issues a delayed national air toxics emission standard, the source must eventually revise its permit, as necessary, to incorporate the emission standard.
- EPA promulgated the Section 112(j) rule on May 20, 1994. Several petitioners filed for review. In part, today's action amends those promulgated regulations in response to the petitioners.
- EPA promulgated the General Provisions March 16, 1994. Six petitioners immediately filed for review of the General Provisions. Today's action promulgates amendments to the 1994 regulations in response to those petitions and other suggestions for improvements. These changes will clarify, reduce burden, and streamline the regulations.

FINAL AMENDMENT REQUIREMENTS - GENERAL PROVISIONS

- Today's final amendments would make the General Provisions more flexible. These changes will reduce the regulatory burden on industry, while improving compliance and compatibility with other regulations governing sources of air toxics.
- In general, EPA applies all parts of the General Provisions to each industrial source subject to its national air toxic standards. In today's amendment, EPA is promulgating that each of the national air toxic standards explicitly specify which requirements in the General Provisions apply or do not apply.
- EPA is identifying eight criteria in the General Provisions to consider when defining "new affected source" differently from "existing affected source." This distinction is important if maximum achievable control technology is different for new and existing facilities.
- EPA is extending the period of time available for an owner or operator of a facility to request a 1-year compliance extension for the installation of pollution controls. This extension will change the time period for requesting a one year extension from the current deadline of 1 year before the compliance date to 120 days before the compliance date, and in certain circumstances up to the compliance date.
- Today's changes will also clarify several issues related to the startup, shutdown, and malfunction provisions.

FINAL AMENDMENT REQUIREMENTS - SECTION 112(j) RULE

- Today's amendments will generally have the effect of streamlining, reducing burden, and clarifying the current regulations. In particular, the amendments clarify the timing of permit applications and when and how the air toxics control standards apply.
- These amendments establish that maximum achievable control technology for new sources will apply when a facility's operating permit is issued rather than by 18 months after the Clean Air Act's regulatory deadline (May 15, 2002). Under the current rule issued in 1994, the air toxics control requirements for new sources could apply to sources that commence construction prior to issuance of the facility's operating permit. This created uncertainty for facility owners/operators about what air toxics control requirements would apply to new sources.
- Today's amendments will revise the Section 112(j) rule to create a two part air toxics control permit application process. Part 1 air toxic control permit applications, due by May 15, 2002 from all major sources in source categories for which EPA has failed to issue national emissions control standards, will include basic information such as source type and location.
- Part 2 air toxics control permit applications will include the relevant process, pollutant, and control information to allow permitting authorities to develop maximum achievable control technology for the facility equivalent to what EPA would have developed. The Part 2 air toxics control permit applications will be due to the appropriate permitting authority within 24 months after the Part 1 application, or May 15, 2004.
- EPA expects to promulgate all remaining national air toxics emissions standards before any facility would be required to submit Part 2 of its air toxics operating permit under the Section 112(j) rule.

FOR FURTHER INFORMATION

- For further information contact Mr. Rick Colyer (919) 541-5262. The amendments are available from the World Wide Web at <http://www.epa.gov/ttn/oarpg/t3pfpr.html>.
- EPA's Office of Air and Radiation home page on the Internet contains a wide range of information on the Air Toxics Program and many other air pollution programs and issues. The address is: <http://www.epa.gov/oar>.